

Proposed Administrative Consent Agreement Background Summary

Subject: Town of Hartland
PO Box 280
Hartland, Maine 04943

Date of Incident(s): Approximately July 9th and July 16th of 2014

Background Narrative: A caller reported to the Board that he thought Hartland town employees were spraying Roundup or a similar type product to sidewalks and walkways around town. Through a follow-up inspection, it was determined that a town employee did apply a 40% concentrate sodium bisulfite solution to about one mile of sidewalk as a crack and crevice treatment targeting growing grass and broadleaf weeds. Neither the town employee nor any other town employee was licensed as a commercial applicator at the time of the applications.

Summary of Violation(s): 22 M.R.S. § 1471-D(1)(A). Commercial pesticide applications may only be conducted by certified commercial applicators.

Rationale for Settlement: The town manager and town employees were cooperative with the inspection. Town personnel were not aware of the commercial licensing requirement.

Attachments: Proposed Consent Agreement

JUN 04 2015

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL

Chris Littlefield)
Town of Hartland)
PO Box 280)
Hartland, Maine 04943)

ADMINISTRATIVE CONSENT AGREEMENT
AND
FINDINGS OF FACT

amount: \$250.00
date: 6/2/15
check#: 2181

This Agreement by and between the Town of Hartland (hereinafter called the "Town") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S.A. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That on July 29, 2014, the Board received a call that Hartland town employees were spraying Roundup or a similar type product to sidewalks and walkways around town and near a bridge and lake. The caller appeared familiar with a license being required for this type of work.
2. That on July 30, 2014, a Board inspector conducted a follow up inspection starting with Chris Littlefield, the town manager. Littlefield stated that two town employees had made a crack and crevice herbicide application to sidewalks around town at his request because a selectman wanted weeds controlled. Littlefield did not know the date of the application or the product used, but was cooperative in arranging a meeting with the employees who made the application.
3. That on August 6, 2014, the Board inspector met with Littlefield, Russel Dickey and Brad Russel. Dickey made the application to the sidewalks over the course of two days, which he thought were on July 9 and July 16. Brad Russel, who works primarily at the water treatment plant, supplied the two-gallon hand can sprayer and the 40% sodium bisulfite solution used to make the applications. The sodium bisulfite was from fifty-five gallon containers of this product stored at the water treatment plant and used to treat effluent.
4. That during the inspection described in paragraph three, Dickey said he applied the 40% concentrate sodium bisulfite solution undiluted. He applied approximately twenty-five gallons to about one mile of sidewalk as a crack and crevice treatment targeting growing grass and broadleaf weeds.
5. That CMR 01-026 Chapter 10, Section 2 (MM), defines a pesticide in part as "any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest".
6. That applying the sodium bisulfite solution as described in paragraphs three and four, constitutes application of sodium bisulfite solution as a pesticide.
7. That any person making a pesticide application that is a custom application, as defined under 22 M.R.S.A. § 1471-C(5-A), must be a certified commercial applicator in accordance with 22 M.R.S.A. § 1471-D(1)(A).
8. That "commercial applicator" also includes individuals who apply pesticides in connection with their duties as employees of local governments, according to 22 M.R.S.A. § 1471-C(5).
9. That a custom application is defined in 22 M.R.S.A. § 1471-C(5-A) as any application of any pesticide under contract or for which compensation is received or any application of a pesticide to a property open to use by the public.
10. That the application described in paragraphs two, three, and four constitutes a custom application as defined in 22 M.R.S.A. § 1471-C(5-A).

11. That no one from the Town had a commercial pesticide applicator's license at the time of the custom application described in paragraphs two, three, and four.
12. That the circumstances described in paragraphs one through eleven constitute a violation of 22 M.R.S.A. § 1471-D(1)(A).
13. That the Board has regulatory authority over the activities described herein.
14. That the Town expressly waives:
 - a. Notice of or opportunity for hearing;
 - b. Any and all further procedural steps before the Board; and
 - c. The making of any further findings of fact before the Board.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. That, in consideration for the release by the Board of the causes of action which the Board has against the Town resulting from the violation referred to in paragraph twelve, the Town agrees to pay to the State of Maine the sum of \$250. (Please make checks payable to Treasurer, State of Maine.)

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

TOWN OF HARTLAND

By: Christopher Littlefield Date: 6/2/15

Type or Print Name: Christopher Littlefield

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Henry Jennings, Director

APPROVED:

By: _____ Date: _____
Mark Randlett, Assistant Attorney General